

DIETITIANS

*Administrative Rules of the Texas Department of Licensing and Regulation
16 Texas Administrative Code, Chapter 116
(Effective July 1, 2018)*

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SUBCHAPTER A. GENERAL PROVISIONS.

116.1. Authority. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

The sections in this chapter are promulgated under the authority of the Texas Occupations Code, Chapters 51 and 701.

116.2. Definitions. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Academy--The Academy of Nutrition and Dietetics, which is the national professional association of dietitians.
- (2) Accredited facilities--Facilities accredited by the Joint Commission on Accreditation of Health Care Organizations.
- (3) Act--The Licensed Dietitian Act, Texas Occupations Code, Chapter 701.
- (4) Advisory Board--Dietitians Advisory Board.
- (5) Certified facilities, agencies, or organizations--Facilities, agencies, or organizations certified by federal agencies.
- (6) Commission--The Texas Commission of Licensing and Regulation.
- (7) Commission on Dietetic Registration (CDR)--The Commission on Dietetic Registration, the credentialing agency for the Academy of Nutrition and Dietetics, is the agency that evaluates credentials, administers proficiency examinations, and issues certificates of registration to qualifying dietitians, and is a member of the National Commission on Health Certifying Agencies. The Commission on Dietetic Registration also approves continuing education activities.
- (8) CPE--Continuing Professional Experience.
- (9) Department --The Texas Department of Licensing and Regulation.
- (10) Dietitian--A person licensed under the Act.
- (11) Dietetics--The professional discipline of applying and integrating scientific principles of food, nutrition, biochemistry, physiology, management, and behavioral and social sciences under different health, social, cultural, physical, psychological, and economic conditions to the proper nourishment, care, and education of individuals or groups throughout the life cycle to achieve and maintain the health of people. The term includes, without limitation, the development, management, and provision of nutrition services.
- (12) Executive director--The executive director of the department.
- (13) Licensed dietitian (LD)--A person licensed under the Act.
- (14) Licensed facilities, agencies, or organizations--Facilities, agencies, or organizations licensed by state agencies.
- (15) Licensee--A person who holds a current license as a dietitian issued under the Act.

- (16) Nutrition assessment--The evaluation of the nutritional needs of individuals and groups based on appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and recommend appropriate nutritional intake including enteral and parenteral nutrition. Nutrition assessment is an important component of medical nutrition therapy.
- (17) Nutrition counseling--Advising and assisting individuals or groups on appropriate nutritional intake by integrating information from the nutrition assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and socioeconomic status. Nutrition counseling is an important component of medical nutrition therapy.
- (18) Nutrition services--This term means:
 - (A) assessing the nutritional needs of individuals and groups and determining resources and constraints in the practice;
 - (B) establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;
 - (C) providing nutrition counseling in health and disease;
 - (D) developing, implementing, and managing nutrition care systems; or
 - (E) evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services.
- (19) Registered dietitian (RD)--A person who is currently registered as a dietitian by the Commission on Dietetic Registration.

SUBCHAPTER B. DIETITIANS ADVISORY BOARD.

116.10. Membership. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

The Dietitians Advisory Board consists of nine members appointed by the presiding officer of the commission with the approval of the commission as follows:

- (1) six licensed dietitian members, each of whom has been licensed under the Act for not less than three years before the member's date of appointment; and
- (2) three members who represent the public.

116.11. Duties. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of the Act and this chapter.

116.12. Terms; Vacancies. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) Members of the advisory board serve staggered six-year terms. The terms of three members begin on September 1 of each odd-numbered year.
- (b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

- (c) A member of the advisory board may be removed from the advisory board pursuant to Texas Occupations Code §51.209, Advisory Boards; Removal of Advisory Board Member.

116.13. Officers. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) The presiding officer of the commission shall designate a member of the advisory board as the presiding officer of the advisory board to serve for a term of one year.
- (b) The presiding officer of the advisory board shall preside at all board meetings at which he or she is in attendance. The presiding officer of the advisory board may vote on any matter before the advisory board.

116.14. Meetings. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) The advisory board shall meet at the call of the presiding officer of the commission or the executive director.
- (b) Meetings shall be announced and conducted under the provisions of the Open Meetings Act, Texas Government Code, Chapter 551.
- (c) A quorum of the advisory board is necessary to conduct official business. A quorum is five members.
- (d) Advisory board action shall require a majority vote of those members present and voting.

SUBCHAPTER C. EDUCATION REQUIREMENTS.

116.20. Degrees and Course Work. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) The department shall accept as meeting licensure requirements baccalaureate and post-baccalaureate degrees and course work received from United States colleges or universities which held accreditation, at the time the degree was conferred or the course work was taken, from accepted regional educational accrediting associations as reported by the American Association of Collegiate Registrars and Admissions Officers.
- (b) Degrees and course work received at foreign colleges and universities shall be acceptable only if such course work could be counted as transfer credit from accredited colleges or universities as reported by the American Association of Collegiate Registrars and Admissions Officers.
- (c) Persons applying for licensure must possess a baccalaureate or post-baccalaureate degree with a major course of study in human nutrition, food and nutrition, nutrition education dietetics, or food systems management.
- (d) In place of the requirements in subsection (c), a person may have an equivalent major course of study defined as either:
 - (1) a baccalaureate or post-baccalaureate degree or course work including a minimum of thirty (30) semester hours in the following areas:
 - (A) twelve (12) semester hours must be specifically designed to train a person to apply and integrate scientific principles of human nutrition under different health, social, cultural, physical, psychological, and economic conditions to the proper nourishment, care, and education of individuals or groups throughout the life cycle;
 - (B) six (6) semester hours must be from human nutrition, food and nutrition, dietetics, or food systems management; and

- (C) twelve (12) semester hours must be from four of the following three-hour courses:
 - (i) upper-division human nutrition related to disease;
 - (ii) upper-division food service systems management;
 - (iii) bio- or physiological chemistry, or advanced normal human nutrition;
 - (iv) food science; or
 - (v) upper-division nutrition education; or
- (2) a baccalaureate or post-baccalaureate degree, including a major course of study meeting the minimum academic requirements to qualify for examination by the Commission on Dietetic Registration.
- (e) The relevance to licensure of academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs or bulletins or by other means acceptable to the department.
- (f) In the event that an academic deficiency is present, an applicant may have one year in which to complete the additional course work acceptable to the department before the application will be voided and the applicant will be required to reapply and to pay additional application fees.
- (g) The semester hours may be part of a degree plan or in addition to a degree.

116.21. Transcripts. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) Applicants must submit official transcripts of all relevant academic credit.
- (b) The department will not accept a course for which an applicant's transcript indicates was not completed with a passing grade for credit.
- (c) A course completed more than once within a five-year period will not be counted more than once to meet the academic requirements as specified in subsection (d).
- (d) In evaluating transcripts, the department shall consider a quarter hour of academic credit as two-thirds of a semester hour.

SUBCHAPTER D. EXPERIENCE REQUIREMENTS.

116.30. Preplanned Professional Experience Programs and Internships. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) Applicants for examination must have satisfactorily completed an approved preplanned professional experience program or internship in dietetics practice of not less than 900 hours under the supervision of a licensed dietitian or a registered dietitian.
- (b) The department approves, and accepts as meeting the licensure requirements, a preplanned professional experience program or an internship as prescribed under subsections (c) and (d).
- (c) A preplanned professional experience program shall be a preplanned professional experience program approved or recognized by the Commission on Dietetic Registration.
- (d) An internship shall be a dietetic internship, a coordinated undergraduate program in dietetics, or a professional experience program in dietetics approved or recognized by the Commission on Dietetic

Registration.

- (e) To show proof of completing the preplanned professional experience program or internship, an applicant at the time of application must submit a photocopy of the registration card issued by the Commission on Dietetic Registration. The registration card must be in active status. The applicant's preplanned professional experience program or internship accepted for registration by the Commission on Dietetic Registration shall be acceptable for licensure by the department.

SUBCHAPTER E. EXAMINATION REQUIREMENTS.

116.40. License Examination Requirements--General. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) Except as provided by subsection (c), an applicant must pass a license examination to qualify for a dietitian license under this chapter.
- (b) Pursuant to Texas Occupations Code §701.253, the examination required for licensure as a Licensed Dietitian is the examination given by the Commission on Dietetic Registration.
- (c) The department shall waive the examination requirement for an applicant who, at the time of application, is a dietitian registered by the Commission on Dietetic Registration and whose registration is in active status.
- (d) An applicant must meet the education and experience requirements under Texas Occupations Code §701.254 to qualify to take the licensing examination.

116.42. License Examination Process. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) An applicant who wishes to take the examination is responsible for completing the examination registration form and submitting it with the appropriate fee to the Commission on Dietetic Registration (CDR) or its designee.
- (b) Examinations administered by the CDR or its designee will be held in locations to be announced by the CDR or its designee.
- (c) Examinations administered by the CDR or its designee shall be graded by the CDR or its designee. The passing grade is determined by the CDR.
- (d) The CDR or its designee shall notify the applicant of the examination results. Applicants must provide documentation showing examination passage to the department.

116.44. Texas Jurisprudence Examination. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) An applicant for licensure as a licensed dietitian shall pass the Texas Jurisprudence Examination prescribed by the department.
- (b) The Texas Jurisprudence Examination is separate from the license examination under §116.40 and §116.42. The Texas Jurisprudence Examination tests the applicant's knowledge of the statute, rules and any other applicable law affecting the applicant's dietetics practice.
- (c) The applicant must register online and pay the Texas Jurisprudence Examination fee to the third-party provider. The applicant does not need to qualify through the department to take the Texas Jurisprudence Examination.
- (d) The applicant must successfully complete the Texas Jurisprudence Examination and submit a certificate of completion prior to receiving a license as a licensed dietitian.

SUBCHAPTER F. LICENSED DIETITIANS.

116.50. Licensed Dietitians--Application and Eligibility Requirements. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official department-approved forms.
- (b) An applicant must submit the following required documentation:
 - (1) a completed application on a department-approved form;
 - (2) official transcript(s) of all relevant college work showing successful completion of education requirements under Texas Occupations Code §701.254(1);
 - (3) copy of the registration card issued by the Commission on Dietetic Registration as proof that the applicant:
 - (A) successfully completed the preplanned professional experience program or internship requirements under Texas Occupations Code §701.254(2) and §116.30; and
 - (B) passed the examination prescribed under Texas Occupations Code §701.253 and §116.40 and §116.42;
 - (4) the form providing information regarding other state licenses, certificates or registrations that an applicant holds or held, if applicable;
 - (5) proof of successfully completing the Texas Jurisprudence Examination under Texas Occupations Code §701.2575 and rule §116.44; and
 - (6) the fee required under §116.110.
- (c) The applicant must successfully pass a criminal history background check.
- (d) The applicant must meet the fitness requirements under §116.51.
- (e) Pursuant to Texas Occupations Code §701.151, the commission or the department shall deny the application for violation of the Act, this chapter, or a provision of the Code of Ethics in §116.105.

116.51. Licensed Dietitians--Fitness of Applicants for Licensure. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) Pursuant to Texas Occupations Code §701.151(b)(3), this section applies to initial applications, renewal applications, and applications for reciprocal licenses.
- (b) In determining the fitness of an applicant for licensure, the department shall consider the following:
 - (1) the skills and abilities of an applicant to provide adequate nutrition services; and
 - (2) the ethical behavior of an applicant in relationships with other professionals and clients.
- (c) In determining the fitness of an applicant for licensure the department may request and consider any of the following:
 - (1) evaluations of supervisors or instructors;

- (2) statements from persons submitting references for the applicant;
 - (3) evaluations of employers and/or professional associations;
 - (4) transcripts or findings from official court, hearing, or investigative proceedings; and
 - (5) any other information which the commission or department considers pertinent to determining the fitness of an applicant.
- (d) The substantiation of any of the following items related to an applicant may be, as the department determines, the basis for the denial of licensure of the applicant:
- (1) lack of the necessary skills and abilities to provide adequate nutrition services;
 - (2) misrepresentation of professional qualifications or affiliations with associations;
 - (3) misrepresentation of nutrition services, dietary supplements and the efficacy of nutrition services to clients;
 - (4) use of misleading or false advertising;
 - (5) violation of any provision of any federal or state statute relating to confidentiality of client communication and/or records;
 - (6) abuse of alcohol or drugs or the use of illegal drugs of any kind in any manner which detrimentally affects the provision of nutrition services;
 - (7) any misrepresentation in application or other materials submitted to the department; and
 - (8) the violation of any commission rule in effect at the time of application which is applicable to an unlicensed person.

116.52. Licensed Dietitians--Issuing Licenses and Identification Cards. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) The department will send each applicant, who meets the requirements of the Act and this chapter, a license certificate and identification card containing the licensee's name, license number, and expiration date.
- (b) Pursuant to Texas Occupations Code §701.351(b), any certificate or identification card issued by the department remains the property of the department and must be surrendered to the department on demand.
- (c) The department may replace a lost, damaged, or destroyed license certificate or identification card upon a written request from the licensee and payment of the duplicate/replacement license fee under §116.110.

116.53. Licensed Dietitians--License Term; Renewals. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) A license held by a licensed dietitian is valid for two years after the date of issuance and may be renewed biennially.
- (b) Each licensee is responsible for renewing the license before the expiration date and shall not be excused from paying additional fees or penalties. Failure to receive notification prior to the expiration date of the license shall not excuse failure to file for renewal or late renewal.
- (c) To renew a license, a licensed dietitian must:

- (1) submit a completed renewal application on a department-approved form;
 - (2) submit proof of successfully completing the Texas Jurisprudence Examination;
 - (3) successfully pass a criminal history background check;
 - (4) meet the fitness requirements under §116.51;
 - (5) complete twelve (12) hours of continuing education as required under §116.80;
 - (6) comply with the continuing education audit process described under §116.82, as applicable; and
 - (7) submit the fee required under §116.110.
- (d) The commission or department shall renew the license of the licensee who has met all requirements for renewal, except as provided in the following sections.
- (e) Pursuant to Texas Occupations Code §701.151, the commission or department shall not renew the license of the licensee who is in violation of the Act, this chapter, or a provision of the Code of Ethics under §116.105 at the time of application for renewal.
- (f) Pursuant to Texas Occupations Code §701.304, the commission or department may refuse to renew the license of a person who fails to pay an administrative penalty imposed under the Act unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.
- (g) A person whose license has expired may late renew the license in accordance with §60.31 and §60.83.
- (h) A person whose license has expired may not use the title or represent or imply that he or she has the title of "licensed dietitian" or use the letters "LD", and may not use any facsimile of those titles in any manner.

SUBCHAPTER I. CONTINUING EDUCATION.

116.80. Continuing Education--General Requirements and Hours. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) Licensed dietitians are required to take continuing education.
- (b) A licensed dietitian must complete a minimum of twelve (12) continuing education hours during each two-year licensing period.
- (c) The hours must have been completed prior to the date of expiration of the license.

116.81. Continuing Education--Approved Courses and Credits. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) The department has determined that to meet the continuing education requirements under the Act and this chapter a licensee must take the courses and hours offered or approved by the Commission on Dietetic Registration or its agents or a regionally accredited college or university.
- (b) Continuing education undertaken by a licensee for renewal shall be acceptable if the experience falls in one or more of the following categories:
 - (1) academic courses related to dietetics;
 - (2) clinical courses related to dietetics;

- (3) in-service educational programs, training programs, institutes, seminars, workshops and conferences in dietetics;
 - (4) instructing or presenting continuing education programs or activities that were offered or approved by the Commission on Dietetic Registration or its agents. Multiple presentations of the same programs only count once;
 - (5) acceptance and participation in poster sessions offered by a nationally recognized professional organization in the dietetics field or its state equivalent organization. Participation will be credited one hour for six (6) poster sessions with a maximum of two clock hours for twelve (12) poster sessions;
 - (6) books or articles published by the licensee in relevant professional books and referred journals. A minimum of three (3) continuing education hours will be credited for the publication; or
 - (7) self-study of professional materials that include self-assessment examinations. Six (6) hours maximum will be credited for self-study during the two-year licensure period.
- (c) Activities unacceptable as continuing education for which the department may not grant continuing education credit are:
- (1) education incidental to the regular professional activities of a licensee such as learning occurring from experience or research;
 - (2) professional organization activity such as serving on committees or councils or as an officer;
 - (3) any continuing education activity completed before or after the period of time described in subsection (a)(1);
 - (4) activities described in subsection (b), which have been completed more than once during the continuing education period;
 - (5) performance of duties that are routine job duties or requirements; or
 - (6) participation in conference exhibits.
- (d) Continuing education experiences shall be credited as follows.
- (1) Completion of course work at or through an accredited college or university shall be credited for each semester hour on the basis of two clock hours of credit for each semester hour successfully completed for credit or audit.
 - (2) An activity which meets the criteria of subsection (b)(2) or (3) shall be credited on a one-for-one basis with CPE as approved by the Academy.
- (e) The Texas Jurisprudence Examination shall be required as follows:
- (1) The licensee must successfully complete the Texas Jurisprudence Examination for renewal.
 - (2) Proof of successfully completing the examination must be retained by the licensee as required in §116.82.
 - (3) One hour of continuing education credit will be granted for successful completion of the Texas Jurisprudence Examination.

116.82. Continuing Education--Records and Audits. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) The department shall employ an audit system for continuing education reporting. The license holder shall be responsible for maintaining a record of his or her continuing education experiences. The certificates, diplomas, or other documentation verifying earning of continuing education hours are not to be forwarded to the department at the time of renewal unless the license holder has been selected for audit.
- (b) The audit process shall be as follows:
 - (1) The department shall select for audit a random sample of license holders for each renewal month. License holders will be notified of the continuing education audit when they receive their renewal documentation.
 - (2) If selected for an audit, the licensee shall submit copies of certificates, transcripts or other documentation satisfactory to the department, verifying the licensee's attendance, participation and completion of the continuing education. All documentation must be provided at the time of renewal.
 - (3) Failure to timely furnish this information or providing false information during the audit process or the renewal process are grounds for disciplinary action against the license holder.
 - (4) A licensee who is selected for continuing education audit may renew through the online renewal process. However, the license will not be considered renewed until required continuing education documents are received, accepted and approved by the department.
 - (5) Licenses will not be renewed until continuing education requirements have been met.

116.83. Continuing Education--Failure to Complete. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) A person who fails to complete continuing education requirements for renewal holds an expired license and may not use the title "licensed dietitian".
- (b) A person may renew late after all the continuing education requirements have been met.

SUBCHAPTER J. RESPONSIBILITIES OF THE COMMISSION AND THE DEPARTMENT.

116.90. Registry. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) The department shall publish a registry of current license holders that includes the name, mailing address, and telephone number of current licensees.
- (b) The registry will be available on the department's website.

116.91. Rules. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) Pursuant to the authority under Texas Occupations Code §51.203, the commission shall adopt rules necessary to implement the Dietitians program. Pursuant to 16 Texas Administrative Code (TAC) §60.22, the department is authorized to propose rules.
- (b) The commission has adopted rules governing changes to the standards of practice rules pursuant to §51.2031. These rules are located at 16 TAC Chapter 100.

SUBCHAPTER K. RESPONSIBILITIES OF THE LICENSEE AND CODE OF ETHICS.

116.100. Display of License. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) This section applies to licensed dietitians.
- (b) The license certificate must be displayed in an appropriate and public manner as follows.
 - (1) The license certificate shall be displayed in the primary office or place of employment of the licensee.
 - (2) In the absence of a primary office or place of employment, or when the licensee is employed at multiple locations, the licensee shall carry a current identification card.
- (c) Neither the licensee nor anyone else shall display a photocopy of a license certificate or carry a photocopy of an identification card in lieu of the original document. A file copy shall be clearly marked as a copy across the face of the document.
- (d) Neither the licensee nor anyone else shall make any alteration on a license certificate or identification card.
- (e) Pursuant to Texas Occupations Code §701.351(b), any certificate or identification card issued by the department remains the property of the department and must be surrendered to the department on demand.

116.101. Changes of Name or Address. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) This section applies to licensed dietitians.
- (b) The licensee shall notify the department of changes in name or mailing address within thirty (30) days of such change(s) on a department-approved form or using a department-approved method.
- (c) Notification of name changes must be mailed or faxed to the department and shall include a copy of a marriage certificate, court decree evidencing such change, or a social security card reflecting the new name. The licensee shall submit the duplicate/replacement fee required under §116.110.

116.103. Disclosure. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

A licensee shall notify each client of the name, mailing address, telephone number, and website address of the department for the purpose of directing complaints to the department by providing notification:

- (1) on each written contract for services of a licensee;
- (2) on a sign prominently displayed in the primary place of business of each licensee; or
- (3) in a bill for service provided by a licensee to a client or third party.

116.104. Unlawful, False, Misleading, or Deceptive Advertising. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) A licensee shall use factual information to inform the public and colleagues of his/her services. A licensee shall not use advertising that is false, misleading, or deceptive or that is not readily subject to verification.
- (b) False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:
 - (1) makes a material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

- (2) makes a representation likely to create an unjustified expectation about the results of a health care service or procedure;
 - (3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;
 - (4) contains a testimonial;
 - (5) causes confusion or misunderstanding as to the credentials, education, or licensure of a health care professional;
 - (6) advertises or represents that health care insurance deductibles or copayments may be waived or are not applicable to health care services to be provided if the deductibles or copayments are required;
 - (7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or copayments are required;
 - (8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or
 - (9) advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved to or used by another profession or professional.
- (c) As used in this section, a "health care professional" includes a licensed dietitian or any other person licensed, certified, or registered by the state in a health-related profession.

116.105. Code of Ethics. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) Professional representation and responsibilities.
- (1) A licensee shall conduct himself/herself with honesty, integrity and fairness.
 - (2) A licensee shall not misrepresent any professional qualifications or credentials. A licensee shall not make any false or misleading claims about the efficacy of any nutrition services or dietary supplements.
 - (3) A licensee shall not permit the use of his/her name for the purpose of certifying that nutrition services have been rendered unless that licensee has provided or supervised the provision of those services.
 - (4) A licensee shall not promote or endorse products in a manner that is false or misleading.
 - (5) A licensee shall disclose to a client, a person supervised by the licensee, or an associate any personal gain or profit from any item, procedure, or service used by the licensee with the client, supervisee, or associate.
 - (6) A licensee shall maintain knowledge and skills required for professional competence. A licensee shall provide nutrition services based on scientific principles and current information. A licensee shall present substantiated information and interpret controversial information without bias.
 - (7) A licensee shall not abuse alcohol or drugs in any manner which detrimentally affects the provision of nutrition services.
 - (8) A licensee shall comply with the provisions of the Texas Controlled Substances Act, the Health and Safety Code, Chapter 481 and Chapter 483, relating to dangerous drugs; and any rules of the

department or the Texas State Board of Pharmacy implementing those chapters.

- (9) A licensee shall have the responsibility of reporting alleged misrepresentations or violations of commission rules to the department.
 - (10) A licensee shall comply with any order relating to the licensee which is issued by the commission or the executive director.
 - (11) A licensee shall not aid or abet the practice or misrepresentation of an unlicensed person when that person is required to have a license under the Act.
 - (12) A licensee shall not make any false, misleading, or deceptive claims in any advertisement, announcement, or presentation relating to the services of the licensee, any person supervised by the licensee or any dietary supplement.
 - (13) A licensee shall conform to generally accepted principles and standards of dietetic practice which are those generally recognized by the profession as appropriate for the situation presented, including those promulgated or interpreted by or under the Academy or Commission on Dietetic Registration, and other professional or governmental bodies. A licensee shall recognize and exercise professional judgment within the limits of his/her qualifications and collaborate with others, seek counsel, or make referrals as appropriate.
 - (14) A licensee shall not interfere with an investigation or disciplinary proceeding by willful misrepresentation of facts to the department or its authorized representative or by the use of threats or harassment against any person.
 - (15) A licensee shall report information if required by the following statutes:
 - (A) Texas Family Code, Chapter 261, concerning abuse or neglect of minors; or
 - (B) Texas Human Resources Code, Chapter 48, concerning abuse, neglect, or exploitation of elderly or disabled persons.
- (b) Professional relationships.
- (1) A licensee shall make known to a prospective client the important aspects of the professional relationship including fees and arrangements for payment which might affect the client's decision to enter into the relationship. A licensee shall bill a client or a third party in the manner agreed to by the licensee and in accordance with state and federal law.
 - (2) A licensee shall not receive or give a commission or rebate or any other form of remuneration for the referral of clients for professional services.
 - (3) A licensee shall disclose to clients any interest in commercial enterprises which the licensee promotes for the purpose of personal gain or profit.
 - (4) A licensee shall take reasonable action to inform a client's physician and any appropriate allied health care provider in cases where a client's nutritional status indicates a change in medical status.
 - (5) A licensee shall provide nutrition services without discrimination based on race, creed, gender, religion, national origin, or age.
 - (6) A licensee shall not violate any provision of any federal or state statute relating to confidentiality of client communication and/or records. A licensee shall protect confidential information and make full disclosure about any limitations on his/her ability to guarantee full confidentiality.

- (7) A licensee shall not engage in sexual contact with a client. The term "sexual contact" means any type of sexual behavior described in the Texas Penal Code, §21.01, and includes sexual intercourse. A licensee shall not engage in sexual harassment in connection with professional practice.
- (8) A licensee shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the services provided.
- (9) A licensee shall not provide services to a client or the public if by reason of any mental or physical condition of the licensee, the services cannot be provided with reasonable skill or safety to the client or the public.
- (10) A licensee shall not provide any services which result in mental or physical injury to a client or which create an unreasonable risk that the client may be mentally or physically harmed.
- (11) A licensee shall provide sufficient information to enable clients and others to make their own informed decision regarding nutritional services.
- (12) A licensee shall be alert to situations that might cause a conflict of interest or have the appearance of a conflict. A licensee shall make full disclosure when a real or potential conflict of interest arises.
- (c) On the written request of a client, a client's guardian, or a client's parent, if the client is a minor, a licensee shall provide, in plain language, a written explanation of the charges for client nutrition services previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.
- (d) A licensee may not persistently or flagrantly overcharge or overtreat a client.
- (e) A licensee shall be subject to disciplinary action by the commission or department if under the Crime Victims Compensation Act, Texas Code of Criminal Procedure, Article 56.31, the licensee is issued a public letter of reprimand, is assessed a civil penalty by a court, or has been convicted and ordered to pay court costs under the Crime Victims Compensation Act, Texas Code of Criminal Procedure, Chapter 56, Subchapter B, Article 56.55.
- (f) A violation of any provision of this section by a person who is an applicant or who subsequently applies for a license (even though the person was not a licensee at the time of the violation) may be a basis for disapproval of the application.

SUBCHAPTER L. FEES.

116.110.Fees. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) All fees paid to the department are nonrefundable.
- (b) Licensed Dietitian Fees:
 - (1) Initial application fee (includes two-year initial license)--\$108; and
 - (2) Renewal application fee (for two-year license)--\$90.
- (c) A duplicate/replacement fee for licenses issued under this chapter is \$25.
- (d) Late renewal fees for licenses issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).

- (e) A dishonored/returned check or payment fee is the fee prescribed under §60.82 of this title (relating to Dishonored Payment Device).
- (f) The fee for a criminal history evaluation letter is the fee prescribed under §60.42 of this title (relating to Criminal History Evaluation Letters).

SUBCHAPTER M. COMPLAINTS.

116.120. Complaints Regarding Standard of Care. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

The commission has adopted rules related to handling complaints regarding standard of care pursuant to Texas Occupations Code §51.2031. These rules are located at 16 Texas Administrative Code Chapter 100.

SUBCHAPTER N. ENFORCEMENT PROVISIONS.

116.130. Administrative Penalties and Sanctions. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

If a person or entity violates any provision of Texas Occupations Code, Chapters 51 or 701, this chapter, or any rule or order of the executive director or commission, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both in accordance with the provisions of Texas Occupations Code, Chapter 51 and 701, as applicable, and any associated rules.

116.131. Enforcement Authority. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

The enforcement authority granted under Texas Occupations Code, Chapters 51 and 701 and any associated rules may be used to enforce Texas Occupations Code, Chapter 701 and this chapter.

116.132. License Surrender. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

Pursuant to Texas Occupations Code §701.351(b), a license issued by the department is the property of the department and shall be surrendered on demand.

SUBCHAPTER O. THE DIETETIC PROFESSION.

116.140. Areas of Expertise. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

The profession of dietetics includes six primary areas of expertise: clinical, educational, management, consultation, community and research; and includes without limitation the development, management, and provision of nutrition services, as follows:

- (1) planning, developing, controlling, and evaluating food service systems;
- (2) coordinating and integrating clinical and administrative aspects of dietetics to provide quality nutrition care;
- (3) establishing and maintaining standards of food production, service, sanitation, safety, and security;
- (4) planning, conducting, and evaluating educational programs relating to nutrition care;
- (5) developing menu patterns and evaluating them for nutritional adequacy;
- (6) planning layout designs and determining equipment requirements for food service facilities;
- (7) developing specifications for the procurement of food and food service equipment and supplies;

- (8) developing and implementing plans of nutrition care for individuals based on assessment of nutrition needs;
- (9) counseling individuals, families, and groups in nutrition principles, dietary plans, and food selection and economics;
- (10) communicating appropriate diet history and nutrition intervention data through medical record systems;
- (11) participating with physicians and allied health personnel as the provider of nutrition care;
- (12) planning, conducting or participating in, and interpreting, evaluating, and utilizing pertinent current research related to nutrition care;
- (13) providing consultation and nutrition care to community groups and identifying and evaluating needs to establish priorities for community nutrition programs;
- (14) publishing and evaluating technical and lay food and nutrition publications for all age, socioeconomic, and ethnic groups; and
- (15) planning, conducting, and evaluating dietary studies and participating in nutrition and epidemiologic studies with a nutrition component.

116.141. Provider of Nutrition Services. *(New section adopted effective October 1, 2016, 41 TexReg 4481)*

- (a) A person licensed by the department is designated as a health care provider of nutrition services.
- (b) A licensed dietitian, acting within the scope of his or her license and consistent with medical direction or authorization as provided in this section, may accept, transcribe into a patient's medical record or transmit verbal or electronically-transmitted orders, including medication orders, from a physician to other authorized health care professionals relating to the implementation or provision of medical nutrition therapy and related medical protocols for an individual patient or group of patients.
 - (1) In a licensed health facility, the medical direction or authorization shall be provided, as appropriate, through a physician's order, or a standing medical order, or standing delegation order, or medical protocol issued in accordance with Texas Occupations Code, Chapter 157, Subchapter A, and rules adopted by the Texas Medical Board implementing the subchapter.
 - (2) In a private practice setting, the medical direction or authorization shall be provided, as appropriate, through the physician's order, standing medical order, or standing delegation order of a referring physician, in accordance with Texas Occupations Code, Chapter 157, Subchapter A, and rules adopted by the Texas Medical Board implementing the subchapter.
- (c) A licensed dietitian, acting within the scope of his or her license and consistent with medical direction or authorization as provided in this section, may order medical laboratory tests relating to the implementation or provision of medical nutrition therapy and related medical protocols for individual patients or groups of patients.
 - (1) In a licensed health facility, the medical direction or authorization shall be provided, as appropriate, through a physician's order, or a standing medical order, or standing delegation order, or medical protocol, issued in accordance with Texas Occupations Code, Chapter 157, Subchapter A, and rules adopted by the Texas Medical Board implementing the subchapter.
 - (2) In a private practice setting, the medical direction or authorization shall be provided through the physician's order, standing medical order, or a standing delegation order of the referring

physician, in accordance with Texas Occupations Code, Chapter 157, Subchapter A, and rules adopted by the Texas Medical Board implementing the subchapter.

116.142. Licensed Dietitians Providing Diabetes Self-Management Training. *(New section adopted effective October 1, 2016, 41 TexReg 4481; amended effective July 1, 2018, 43 TexReg 4173)*

- (a) This section implements the Insurance Code, Title 8, Subtitle E, Chapter 1358, §1358.055.
- (b) Diabetes self-management training covers the following training:
 - (1) training provided to a qualified enrollee after the initial diagnosis of diabetes in the care and management of that condition, including nutrition counseling and proper use of diabetes equipment and supplies;
 - (2) additional training authorized on the diagnosis of a physician or other health care practitioner of a significant change in the qualified enrollee's symptoms or condition that requires changes in the qualified enrollee's self-management regimen; and
 - (3) periodic or episodic continuing education training when prescribed by an appropriate health care practitioner as warranted by the development of new techniques and treatments for diabetes.
- (c) A licensed dietitian who provides diabetes self-management training as a member of a multi-disciplinary team must meet the following requirements:
 - (1) Prior to beginning to provide diabetes self-management training as member of a multi-disciplinary team under Insurance Code, Title 8, Subtitle E, Chapter 1358, §1358.055(c)(2), a licensed dietitian must complete at least six (6) hours of continuing education in diabetes-specific or diabetes-related topics within the previous two years.
 - (2) Thereafter, to remain qualified to continue to provide such services, a licensed dietitian shall complete at least six (6) hours of continuing education biennially in diabetes-specific or diabetes-related topics.
 - (3) A licensed dietitian who is not a Certified Diabetes Educator and who is providing diabetes self-management training as a member of a multi-disciplinary team under Insurance Code, Title 8, Subtitle E, Chapter 1358, §1358.055(c)(2), shall confine his or her professional services to nutrition education and/or counseling, lifestyle modifications, the application of self-management skills, reinforcing diabetes self-management training, and other acts within the scope of his or her professional education and training which are conducted under the supervision of the coordinator of the multi-disciplinary team.
- (d) A licensed dietitian who provides the nutrition component of diabetes self-management training must meet the following requirements:
 - (1) Prior to beginning to provide the nutrition component of diabetes self-management training under Insurance Code, Title 8, Subtitle E, Chapter 1358, §1358.055(c)(4), a licensed dietitian must complete at least six (6) hours of continuing education in diabetes-specific or diabetes-related topics within the previous two years.
 - (2) Thereafter, to remain qualified to continue to provide such services, a licensed dietitian shall show proof to the department completion of at least six (6) hours of continuing education biennially in diabetes-specific or diabetes-related topics.
- (e) The continuing education completed under this section shall meet the requirements described in Subchapter I, Continuing Education. The continuing education completed under this section may be part of the credits required for renewal of a license.

- (f) Upon written request by the department, the licensed dietitian shall submit to the department proof of completion of the continuing education completed under this section. The licensed dietitian shall submit the proof of completion in a manner and a timeframe acceptable to the department.
- (g) This section does not apply to a licensed dietitian who is a diabetes educator certified by the National Certification Board for Diabetes Educators.
- (h) This section does not pertain to or restrict a licensed dietitian who does not qualify under this section from providing the nutrition component of diabetes self-management training within the scope of the license issued by the department, to a person:
 - (1) who is not a qualified enrollee as defined in the Insurance Code, Title 8, Subtitle E, Chapter 1358, §1358.051;
 - (2) who does not intend to seek payment for or reimbursement for diabetes self-management training;
or
 - (3) without the written order of a licensed physician or other healthcare practitioner.